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Entertainment, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FIONA HARVEY,

Plaintiff,

v.

NETFLIX, INC., and NETFLIX
WORLDWIDE ENTERTAINMENT,
LLC,

Defendants.

Case No. 2:24-cv-04744-RGK-AJR

**[PROPOSED] ORDER GRANTING
DEFENDANTS NETFLIX, INC. AND
NETFLIX WORLDWIDE
ENTERTAINMENT, LLC'S ANTI-
SLAPP MOTION TO STRIKE**

Date: September 3, 2024
Time: 9:00 a.m.
Place: Courtroom 850

Hon. R. Gary Klausner

[PROPOSED] ORDER

WHEREAS, defendants Netflix, Inc. and Netflix Worldwide Entertainment, LLC's (collectively, "Netflix" or "Defendants") Special Motion to Strike the Complaint filed by plaintiff Fiona Harvey ("Harvey") came on for hearing on September 3, 2024 before the Honorable. R. Gary Klausner in Courtroom 850 of the above-captioned court;

WHEREAS, having considered the motion and papers submitted in support thereof, all opposition papers, and all oral argument;

THEREFORE, the Court hereby orders that the special motion to strike is **GRANTED** on the grounds that Harvey's claims arise out of Netflix's conduct in furtherance of free speech, and Harvey has not demonstrated that her claims are legally sufficient and substantiated. Harvey's claims arise from protected activity, as they are premised on Netflix's distribution of an expressive work which addresses topics and persons of public interest. *See Tamkin v. CBS Broad., Inc.*, 193 Cal. App. 4th 133, 143-44 (2011). Harvey also does not meet her burden to establish that her claims have merit. First, Harvey does not establish that Netflix made any provably false statements about her. *See Aguilar v. Universal City Studios, Inc.*, 174 Cal. App. 3d 384, 391 (1985); *Sarver v. Hurt Locker LLC*, 2011 WL 11574477, at *8 (C.D. Cal. Oct. 13, 2011); *Tamkin*, 193 Cal. App. 4th at 147; *Partington v. Bugliosi*, 56 F.3d 1147, 1154-55 (9th Cir. 1995); *Brodeur v. Atlas Enter., Inc.*, 248 Cal. App. 4th 665, 680 (2016); *Films of Distinction, Inc. v. Allegro Film Prods., Inc.*, 12 F. Supp. 2d 1068, 1081 (C.D. Cal. 1998). Second, the alleged defamatory statements are substantially true. *See Elliott v. Lions Gate Entm't Corp.*, 639 F. Supp. 3d 1012, 1027 (C.D. Cal. 2022); *Jackson v. Mayweather*, 10 Cal. App. 5th 1240, 1262-63 (2017), as modified (Apr. 19, 2017). Third, the alleged defamatory statements are non-actionable opinion. *See Partington*, 56 F. 3d at 1154; *Ferlauto v. Hamsher*, 74 Cal. App. 4th 1394, 1401-03 (1999); *Underwager v. Channel 9 Australia*, 69 F.3d 361, 367 (9th Cir. 1995).

1 Fourth, Harvey does not establish that Netflix acted with actual malice. *See*
2 *Kapellas v. Kofman*, 1 Cal. 3d 20, 36 (1969); *Mosesian v. McClatchy Newspapers*,
3 233 Cal. App. 3d 1685, 1696 (1991); *Planet Aid, Inc. v. Reveal*, 44 F.4th 918, 927
4 (9th Cir. 2022); *Denney v. Lawrence*, 22 Cal. App. 4th 927, 936 (1994); *Dworkin*
5 *v. Hustler Magazine, Inc.*, 668 F. Supp. 1408, 1418 n.15 (C.D. Cal. 1987); *De*
6 *Havilland v. FX Networks, LLC*, 21 Cal. App. 5th 845, 869 (2018). Because
7 Harvey's defamation claim is legally insufficient and unsubstantiated, her other
8 claims, which are premised on the same allegations, must also be stricken. *Gilbert*
9 *v. Sykes*, 147 Cal. App. 4th 13, 34 (2007); *Planet Aid, Inc. v. Ctr. for Investigative*
10 *Reporting*, 2021 WL 1110252, at *24 (N.D. Cal. Mar. 23, 2021); *Seelig v. Infinity*
11 *Broad. Corp.*, 97 Cal. App. 4th 798, 812 (2002). Consequently, the Court strikes
12 all causes of action in Harvey's complaint.

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14 **IT IS SO ORDERED.**

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16 Dated: _____, 2024

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18 Hon. R. Gary Klausner
19 United States District Judge
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